



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. John T. Fessenden
Walsh, Anderson, Underwood,
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P.O. Box 460606
San Antonio, Texas 78246-0606

OR95-885

Dear Mr. Fessenden:

On behalf of the Jourdanton Independent School District (the "district"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request an identification number, ID# 33806.

The district has received a request for ten informational items relating to the district's program for dyslexic students. The district contests the release of seven of the ten items. We presume the district has released or will release the remaining three items.

The seven items the district believes it need not release under the Open Records Act are as follows (the numbers correspond to the numbering the request letter uses):

(2) An accounting of the number of dyslexic students (by campus) currently receiving services under Section 504 in the Jourdanton ISD.

(3) An accounting of the number of dyslexic students (by campus) who received services under Section 504 in the Jourdanton ISD for the school year, 1993-94.

(6) Number of Classes/Partial Classes/Tutoring Sessions held for dyslexic students under Section 504 on a regularly scheduled basis - by campus - during the school year, 1994-1995.

(7) Number of Classes/Partial Classes/Tutoring Sessions held for dyslexic students under Section 504 on a regularly scheduled basis - by campus - during the school year, 1993-1994.

(8) The number of students in the Jourdanton ISD (by campus) who are currently identified as dyslexic, but not currently receiving services, under Section 504 or Special Education.

(9) Number of identified dyslexic students who received instruction by use of Scottish Rite Tapes under Section 504, during 1993-1994, by campus.

(10) Number of identified dyslexic students who received instruction by use of Scottish Rite Tapes under Section 504, during 1994-1995, by campus.

You indicate the district does not maintain the requested information in the form requested. The Open Records Act does not require a governmental body to answer factual questions, *see* Open Records Decision No. 555 (1990) at 1, or to prepare information in a form a member of the public has requested, Open Records Decision No. 467 (1987) at 2. On the other hand, a governmental body must make a good-faith effort to relate a request to information in its possession.¹ Open Records Decision No. 561 (1990) at 8.

With respect to your alternative argument, that section 552.114 of the Government Code authorizes the district to withhold the requested information, you have submitted no information for our review. *See* Gov't Code § 552.303 (requiring governmental body that requests attorney general decision on open records request to supply to attorney general specific information requested). Consequently, we are unable to determine whether section 552.114 applies in this situation.

¹We understand that a school district must keep a file on every dyslexic student receiving special services from the district. We therefore find it difficult to believe that the district does not have information responsive to the request. The district may, of course, have to deidentify the information. *See* 20 U.S.C. § 1232g; Gov't Code §§ 552.026, .114.

We further note that the Seventy-fourth Legislature amended the Open Records Act by adding section 552.131 to the Government Code. *See* Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 15, available in Westlaw, Tx-Legis 1035 (1995) (copies available at House Document Distribution Office). Section 552.231 provides for a governmental body's response to a request for information that requires programming or manipulation of data. Section 552.231 states that, in response to such a request, the governmental body must furnish the requestor with a written statement indicating, among other things, the information is unavailable in the requested form and a description of the form in which the information is available; the estimated cost of providing the information in the requested form; and the anticipated time required to provide the information in the requested form. Section 552.231 applies only to a request for information a governmental body receives on or after September 1, 1995. *See id.* § 26. Because the district received this request for information in May 1995, section 552.231 is inapplicable.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 of the Government Code regarding any other records. If you have questions about this ruling, please contact this office.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/RHS/ch

Ref.: ID# 33806

cc: Ms. Iris Brite Porter
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